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7
8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10

11 JARRELL RAYVON ALLEN, an
12 individual,

13 Plaintiffs,

14 v.

15 COUNTY OF RIVERSIDE, a
16 California municipal entity;
17 RIVERSIDE COUNTY SHERIFF'S
DEPARTMENT, a California municipal
18 entity; CORPORAL LUIS IBARRA, an
individual; DEPUTY NIGEL HINSON,
19 an individual; DEPUTY MATT
BILTON, an individual; DEPUTY
20 ANTHONY LEVESQUE, an
individual; DEPUTY SHERIFF
LORENA MIRANDA, an individual;
21 DEPUTY ANDREW PEARSON, an
individual; DEPUTY JOSEPH
22 RODRIGUEZ, an individual; and
DOES 1-30, inclusive,
23

24 Defendants.

Case No.: _____

COMPLAINT FOR DAMAGES:

1. **Excessive Force; 42 U.S.C. § 1983;**
2. **Excessive Force; 42 U.S.C. § 1983, *Monell*;**
3. **Failure to Train, Supervise, and Discipline; 42 U.S.C. § 1983, *Monell*;**
4. **Negligence;**
5. **Battery;**
6. **Intentional Infliction Of Emotional Distress;**
7. **Discrimination/Civil Rights Violations (Civil Code § 51.7);**
8. **Civil Rights Violations (Civil Code § 52.1(b)(h))**

DEMAND FOR JURY TRIAL

25
26 Plaintiff JARRELL RAYVON ALLEN (herein "Plaintiff") hereby alleges
27 as follows:
28

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INTRODUCTORY STATEMENT

This is a civil rights action seeking monetary damages from Defendants for violating various rights under the United States Constitution and California state law in connection with the wrongful use of excessive force against Plaintiff on May 26, 2018.

JURISDICTION

1. This is a civil suit brought under the Federal Civil Rights Act, 42 U.S.C. § 1983 for violation of Plaintiff's rights as secured by the United States Constitution. This court has "Federal Question" subject matter jurisdiction over the parties and claims pursuant to 28 U.S.C. § 1343(3) and 28 U.S.C. § 1331. The Court has personal jurisdiction over the parties in that each defendant is a citizen of the state of California and a resident of the County of Riverside. Defendants performed all torts alleged herein in the County of Riverside.

VENUE

2. Venue is proper in the Central District of California under 28 U.S.C. sections 1391 (a) and (b) in that the underlying acts and injuries upon which the present action is based occurred in the County of Riverside, California. Moreover, all of the defendants live and work in the County of Riverside.

PARTIES

3. JARRELL RAYVON ALLEN is and was at all relevant times herein, an individual residing in Riverside County, State of California.

4. Defendant COUNTY OF RIVERSIDE (herein "COUNTY") is and was at all times relevant herein, a municipal corporation and political subdivision, organized and existing under the laws of the State of California, and owns, operates, manages, directs and/or controls RIVERSIDE COUNTY SHERIFF'S DEPARTMENT.

5. On July 9, 2018, Plaintiff presented Defendant COUNTY with a Claim for Damages sustained as a result of the incident described in this Complaint pursuant

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to California Government Code §§ 905, 910 et seq. Attached as Exhibit “A” and incorporated herein by this reference is a true and correct copy of Plaintiff’s Claim for Damages presented to COUNTY. As the date of the filing of the instant Complaint, said Claim has been deemed denied by operation of law.

6. Defendant RIVERSIDE COUNTY SHERIFF'S DEPARTMENT (herein “RCSD”) is and was at all times relevant herein, a municipal corporation and a subdivision of the COUNTY.

7. Defendants CORPORAL LUIS IBARRA (“IBARRA”), DEPUTY NIGEL HINSON (“HINSON”), DEPUTY MATT BILTON (“BILTON”), DEPUTY ANTHONY LEVESQUE (“LEVESQUE”), DEPUTY SHERIFF LORENA MIRANDA (“MIRANDA”), DEPUTY ANDREW PEARSON (“PEARSON”), and DEPUTY JOSEPH RODRIGUEZ (“JOSEPH RODRIGUEZ”) (collectively “INDIVIDUAL DEPUTIES”) are, and at all pertinent times were, individuals employed in the County of Riverside by Defendants COUNTY and RCSD and supervised and controlled by Defendants COUNTY and RCSD, as well as through other COUNTY and RCSD policymakers and managers.

8. The true names and/or capacities, whether individual, corporate, associate or otherwise of Defendants DOES 1 through 30, inclusive, and each of them, are unknown to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs will amend this Complaint to allege such defendants’ true names and capacities when same have been ascertained. Plaintiffs are informed and believes and thereon alleges that each of the fictitiously named Defendants is responsible in some manner for the acts and occurrences herein alleged, whether such acts and occurrences were committed intentionally, negligently, recklessly or otherwise and that each said DOE defendant is liable to plaintiff for the damages claimed herein. Plaintiff is informed and believes and thereupon alleges that each of the Defendants herein fictitiously named as a DOE is legally responsible, negligently or in some other actionable manner, for the events and happenings

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hereinafter referred, and therefore, proximately caused the injuries and damages to Plaintiffs as herein alleged.

9. In doing the acts alleged in this complaint, Defendants, and each of them, were acting under the color of statutes, ordinances, regulations, customs, laws, and usages of the COUNTY and RCSD and the State of California and under the authority of their respective offices.

10. Defendants, and each of them, were the agents, employees and servants of each other and were acting at all times within the full course and scope of their agency and employment, with the full knowledge and consent, either expressed or implied, of their principal and/or employer and each of the other named Defendants, and each of the Defendants had approved or ratified the actions of the other Defendants thereby making all named Defendants herein liable for the acts and/or omissions of their agents, servants and/or employees.

FACTS SHARED BY ALL CAUSES OF ACTION

11. Plaintiff repeats and re-alleges all prior paragraphs of this Complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

12. On June 7, 2018, a Riverside County Grand Jury report titled "Riverside County Sheriff's Department Corrections Division - Correctional Centers Inmate Services Issues," notified Defendants COUNTY and RCSD of their responsibility of "providing a safe and secure environment for humane care of detained or incarcerated citizens."

13. The Riverside County Grand Jury report notified Defendants COUNTY and RCSD that the "[t]he grievance procedure is a method designed to allow an inmate/detainee to document a complaint regarding a variety of issues within the detention facility or department" and is "an important tool to rectify and mitigate problems brought to the attention of detention staff."

14. The Riverside County Grand Jury report recommended Defendants

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COUNTY and RCSD to adopt the following: (a) All grievance responses should be written in a professional manner and be reviewed by a supervisor ensuring that the responses are professional. If the lieutenant finds a complaint is sustained, then it should be forwarded to the captain level for the appropriate disposition; (b) Policies and procedures should be modified to reflect this process; (c) All staff should receive appropriate annual training on properly and professionally responding to a grievance; (d) Grievance responses should include the policy/procedure number(s) as the reference correlating to the response for either granting or denying the grievance.

15. The Riverside County Grand Jury report also notified Defendants COUNTY and RCSD that the “California Government Code §26202.6(a)(c) with respect to video recordings requires that they be available for review for one year after the date of the original recording.” The Riverside County Grand Jury did not receive requested videos due to the fact that “they had been reported lost due to a failure of the recording device.”

16. The Riverside County Grand Jury report recommended Defendants COUNTY and RCSD the following: (1) provide preservation of audio/video recordings for a minimum of one year in accordance with the California Government Code §26202.6 (a) (c), and (2) provide a reliable video record, backup recorders should be available to replace units found to be malfunctioning. Checks of full functionality should be completed at least once per shift in areas such as exercise yards and Administrative Segregation and dayrooms. Sufficient tapes or digital media should be made available to meet the one year retention period required in Government Code §26202.6 (a) (c).

17. On or before May 26, 2018, Plaintiff was an inmate at the Larry D. Smith Correctional Facility (“Correctional Facility”), located at 1627 Hargrave Street in Banning, California. At all relevant times mentioned here, Plaintiff’s booking number was 201724927.

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1 18. On May 26, 2018, possibly at around 11:30 a.m., Defendant IBARRA told
2 Plaintiff to step out of the dayroom of the Correctional Facility and to place his
3 hands behind his back. Plaintiff complied with Defendant IBARRA's command.

4 19. Without reasonable cause or warning, Defendant IBARRA slammed
5 Plaintiff's face into the wall and began to repeatedly punch Plaintiff in the head
6 and face.

7 20. Plaintiff covered his face with his hands in an attempt to divert the punches
8 by Defendant IBARRA.

9 21. Another Deputy Defendant DOE 1 appeared from Plaintiff's behind and
10 began to repeatedly punch Plaintiff in the head.

11 22. Plaintiff fell to the ground and continued to cover his face in an attempt to
12 protect himself from harm.

13 23. A third Deputy Defendant DOE 2 appeared and began kicking Plaintiff
14 while Plaintiff was laying on the ground covering his face.

15 24. The three Deputy Defendants, including Defendant IBARRA and DOES 1
16 through 2, proceeded to kick and beat the Plaintiff repeatedly while he was laying
17 on the ground.

18 25. Plaintiff made no acts and/or movements that solicited and/or justified the
19 excessive force and battery committed on him.

20 26. Plaintiff sustained severe injuries, including but not limited to the
21 following: (1) bruising and swelling on his face and head; (2) difficulty eating due
22 to injuries to his mouth and face; (3) swollen "black eyes;" (4) injuries to his
23 hands from being beaten while handcuffed; (5) difficulty walking due to pain in
24 his legs; (6) severe pain over much of his body.

25 27. Plaintiff was denied medical care and placed in a cell to bleed profusely for
26 hours.

27 28. On information and belief, possible motivations for the attack may have
28 included (1) grievances submitted regarding correctional officers wherein Plaintiff

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1 was choked while in handcuffs and beaten and kicked in the face while lying on
2 the ground; (2) the fact that Plaintiff had refused a plea bargain in his criminal
3 prosecution and had insisted on proceeding to trial; (3) that Plaintiff had
4 succeeded in moving the Court to order the disclosure of peace officer personnel
5 files in his criminal prosecution; and (4) that one of the deputy/officer witnesses in
6 Plaintiff's criminal prosecution had been caught and possibly indicted for perjury
7 and/or falsifying evidence.

8 29. On information and belief, a reasonable law enforcement officer would not
9 have used excessive force against Plaintiff under the same circumstances because:
10 (a) Plaintiff was cooperating and was not resisting; (b) Plaintiff was unarmed; (c)
11 Plaintiff was not a threat to anyone and as such Defendants and each of them,
12 could not have reasonably believed that they were in imminent danger of being
13 killed, injured or touched unlawfully; and (d) even if there was any imminent
14 danger, DEFENDANTS and each of them, used more force than was necessary
15 when several Defendants took turns to beat an unarmed Plaintiff.

16 30. At all times relevant hereto, Defendants COUNTY and RCSD were
17 responsible for the training of all officers of Defendants COUNTY and RCSD in
18 the proper care of individuals within their custody. Defendants IBARRA,
19 HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, and RODRIGUEZ
20 were trained by the COUNTY and RCSD, at the direction, special insistence, and
21 under the control of Defendants COUNTY and RCSD, in the proper care of
22 individuals within their custody in accordance with the statutes, ordinances,
23 regulations, customs, and usages of Defendants COUNTY and RCSD and the
24 State of California. Defendant COUNTY was also responsible for enforcing the
25 regulations of the RCSD and for ensuring that law enforcement personnel of the
26 RCSD obeyed the laws of the State of California and the United States of
27 America.

28 31. Defendants COUNTY and RCSD, by and through their supervisory

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employees and officials, have been on notice through complaints, both formal and informal, that its officers have repeatedly engaged in a pattern and practice of purposefully abridging the rights, constitutional and otherwise, of persons within their jurisdiction. Despite such notice, the COUNTY and RCSD, and certain of the DOE Defendants, and each of them, demonstrated deliberate indifference to this pattern and practice of violations of rights by failing to take necessary, appropriate, or adequate measures to ensure the cessation of such conduct. This deliberate indifference of the Defendants amounts to an informal policy or custom, and ratification, said policy or custom ratified being another proximate cause of the injury to Plaintiffs.

32. As a direct and proximate cause of the acts alleged above, Plaintiff has had to hire the services of an attorney. Plaintiff has incurred and continues to incur legal expenses, costs, and attorneys' fees, and is entitled to an award of attorneys' fees and costs pursuant to 42 U.S.C. § 1988(b). Plaintiff is presently unaware of the precise amount of these expenses and fees and prays leave of court to amend this Complaint when the amounts are more fully known.

FIRST CAUSE OF ACTION

EXCESSIVE FORCE – 42 U.S.C. § 1983

(Against Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1-30, inclusive, only)

33. Plaintiff repeats and re-alleges all prior paragraphs of this Complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

34. Amongst other things and actions, Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ and Does 1 through 30, and each of them, used and/or supported and ratified the use of excessive force when they surrounded Plaintiff while he was unarmed, and proceeded to batter Plaintiff's person repeatedly by punching and kicking him

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1 even though Plaintiff never threatened physical violence upon any of the named
 2 Defendants nor was he able to carry out any type of physical violence upon named
 3 Defendants while he was laying on the ground. The named Defendants and each
 4 of them, acted under color of law at all times relevant to this Complaint.

5 35. On information and belief, a reasonable law enforcement officer would not
 6 have used excessive force against Plaintiff under the same circumstances because:
 7 (a) Plaintiff was cooperating and was not resisting; (b) Plaintiff was unarmed; (c)
 8 Plaintiff was not a threat to anyone and as such Defendants and each of them,
 9 could not have reasonably believed that they were in imminent danger of being
 10 killed, injured or touched unlawfully; and (d) even if there was any imminent
 11 danger, Defendants and each of them, used more force than was necessary when
 12 several Defendants took turns to beat an unarmed and handcuffed Plaintiff.

13 36. As a result, the officers' use of excessive force was objectively
 14 unreasonable under the circumstances. The excessive force used was also
 15 performed with a deliberate indifference to the safety and welfare of Plaintiff.
 16 Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
 17 PEARSON, RODRIGUEZ, and DOES 1 through 30's actions thus deprived
 18 Plaintiff of his right to be free from the use of excessive force by law enforcement
 19 as guaranteed to him under the Fourth Amendment of the United States
 20 Constitution.

21 37. As a direct and proximate result of Defendants IBARRA, HINSON,
 22 BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1-
 23 30's deprivations and violations of Plaintiff's Fourth Amendment rights, Plaintiff
 24 suffered and continues to suffer general and special damages according to proof at
 25 the time of trial.

26 38. As a further direct and proximate result of the foregoing, Plaintiff suffered
 27 severe physical injuries inflicted upon him by County personnel, including but not
 28 limited to the following: (1) bruising and swelling on his face and head; (2)

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1 difficulty eating due to injuries to his mouth and face; (3) swollen “black eyes;”
 2 (4) injuries to his hands from being beaten while handcuffed; (5) difficulty
 3 walking due to pain in his legs; (6) severe pain over much of his body.

4 39. As a further direct and proximate result of the foregoing, Plaintiff suffered
 5 and continues to suffer from physical ailments, depression, nightmares, mental
 6 anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping, social
 7 withdrawal, tearfulness, and anger.

8 40. Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
 9 PEARSON, RODRIGUEZ, and DOES 1 through 30’s violations of Plaintiff’s
 10 rights as guaranteed by the Fourth Amendment of the United States Constitution
 11 entitles Plaintiff to reasonable attorneys’ fees and costs of suit pursuant to 42
 12 U.S.C. § 1988(b).

13 41. In committing the acts described above, Plaintiff is informed and believes,
 14 and thereon allege that Defendants IBARRA, HINSON, BILTON, LEVESQUE,
 15 MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30, only, and each
 16 of them, acted with oppression, fraud, and/or malice, entitling Plaintiffs to an
 17 award of punitive damages under 42 U.S.C. § 1983 and California Code of Civil
 18 Procedure § 337.34 against Defendant IBARRA, HINSON, BILTON,
 19 LEVESQUE, MIRANDA, PEARSON, and RODRIGUEZ in an amount
 20 according to proof at time of trial.

21 **SECOND CAUSE OF ACTION**

22 **EXCESSIVE FORCE, 42 U.S.C. § 1983, *MONELL***

23 **(Plaintiffs v. COUNTY, RCSD, and DOES 1-30)**

24 42. Plaintiffs re-allege and incorporates by reference each and every allegation
 25 contained in this Complaint as though set forth herein in full.

26 43. Defendants COUNTY, RCSD, and DOES 1 through 30 maintained an
 27 unconstitutional custom, policy or practice, within the meaning of *Monell v.*
 28 *Department of Social Services of the City of New York*, 436 U.S. 658

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1 (1978) (*"Monell"*), for detaining and/or arresting individuals with the use of
2 excessive and/or deadly force that deprived and continues to deprive persons of
3 life, liberty and property.

4 44. Defendants either knew or had constructive knowledge that it should train
5 its law enforcement personnel in the use of proper force when detaining an
6 unarmed and/or handcuffed detainee within their custody. Despite having this
7 knowledge, Defendants condoned, tolerated and through actions and inactions
8 thereby ratified such policies.

9 45. The unconstitutional policy, custom, practice and refusal of Defendants
10 COUNTY and RCSD to train its employees, including INDIVIDUAL
11 DEPUTIES, on the use of proper force when detaining an unarmed and
12 handcuffed detainee, described above, was a direct cause of Plaintiff's injuries in
13 this case, without which the injuries would not have occurred.

14 46. By perpetrating, sanctioning, tolerating, and ratifying the conduct and other
15 wrongful acts, Defendants COUNTY and RCSD acted with an intentional,
16 reckless, and callous disregard for the life and constitutional and human rights of
17 Plaintiff.

18 47. The conduct alleged herein violated Plaintiff's right alleged above which
19 has legally, proximately, foreseeably and actually caused Plaintiffs to suffer
20 general and special damages according to proof at the time of trial.

21 48. As a direct and proximate result of Defendants IBARRA, HINSON,
22 BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1
23 through 30's deprivations and violations of Plaintiff's Fourth Amendment rights,
24 Plaintiff suffered and continues to suffer general and special damages according to
25 proof at the time of trial.

26 49. As a further direct and proximate result of the foregoing, Plaintiff suffered
27 severe physical injuries inflicted upon him by County personnel, including but not
28 limited to the following: (1) bruising and swelling on his face and head; (2)

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1 difficulty eating due to injuries to his mouth and face; (3) swollen “black eyes;”
 2 (4) injuries to his hands from being beaten while handcuffed; (5) difficulty
 3 walking due to pain in his legs; (6) severe pain over much of his body.

4 50. As a further direct and proximate result of the foregoing, Plaintiff suffered
 5 and continues to suffer from physical ailments, depression, nightmares, mental
 6 anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping, social
 7 withdrawal, tearfulness, and anger.

8 51. Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
 9 PEARSON, RODRIGUEZ, and DOES 1 through 30’s violations of PLAINTIFF’s
 10 rights as guaranteed by the Fourth Amendment of the United States Constitution
 11 entitles Plaintiff to reasonable attorneys' fees and costs of suit pursuant to 42
 12 U.S.C. § 1988(b).

13 52. In committing the acts described above, Plaintiff is informed and believes,
 14 and thereon alleges that Defendants IBARRA, HINSON, BILTON, LEVESQUE,
 15 MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30, only, and each
 16 of them, acted with oppression, fraud, and/or malice, entitling Plaintiffs to an
 17 award of punitive damages under 42 U.S.C. § 1983 and California Code of Civil
 18 Procedure § 337.34 against Defendant IBARRA, HINSON, BILTON,
 19 LEVESQUE, MIRANDA, PEARSON, and RODRIGUEZ in an amount
 20 according to proof at time of trial.

21 **THIRD CAUSE OF ACTION**

22 **FAILURE TO PROPERLY TRAIN, SUPERVISE AND DISCIPLINE, 42**

23 **U.S.C. § 1983, *MONELL***

24 **(Plaintiffs v. COUNTY, RCSD, and DOES 1-30)**

25 53. Plaintiffs re-allege and incorporates by reference each and every allegation
 26 contained in this complaint as though set forth herein in full.

27 54. The COUNTY, RCSD, and DOES 1 through 30 as a matter of custom,
 28 practice, and policy, failed to maintain adequate and proper training for officers

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1 and law enforcement personnel in the RCSD necessary to educate the officers as
2 to the Constitutional rights of detainees, to prevent the consistent and systematic
3 use of excessive force by detaining officers, deputies, and/or sheriffs, and/or to
4 prevent the excessive force and extra judicial punishment of potential detainees by
5 its officers, deputies and/or sheriffs.

6 55. Defendants COUNTY, RCSD, and DOES 1 through 30 also failed to
7 provide adequate supervision and discipline to officers, deputies, and/or sheriffs
8 that hold the power, authority, insignia, equipment, weapons, and/or other type of
9 means entrusted to them as described herein. COUNTY and RCSD also failed to
10 promulgate and enforce adequate policies and procedures related to the use of
11 proper force, and when to cease and desist the use of excessive force in detaining
12 an unarmed and/or handcuffed detainee.

13 56. Defendants COUNTY and RCSD'S failures to supervise and discipline
14 offending officers, deputies, and/or sheriffs that fostered and/or practiced the
15 custom, practice, and/or policy to use excessive force towards unarmed and/or
16 handcuffed detainees within RCSD resulted in the brutal and violent attack to
17 Plaintiff's person.

18 57. By perpetrating, sanctioning, tolerating, and ratifying the conduct and other
19 wrongful acts, Defendants COUNTY and RCSD acted with an intentional,
20 reckless, and callous disregard for the life and constitutional and human rights of
21 Plaintiff.

22 58. Said custom, practice, and policy included a failure to adequately
23 investigate, supervise and discipline offending officers that fostered the custom,
24 practice, and policy within the RCSD which resulted in the brutal and violent
25 attack to Plaintiff's person.

26 59. Therefore, these Defendants, with deliberate indifference, disregarded a
27 duty to protect the public from official misconduct.

28 60. The failure to promulgate or maintain constitutionally adequate policies

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1 regarding training and impartiality was done with deliberate indifference to the
2 rights of Plaintiff and others in his position.

3 61. The constitutionally infirm lack of adequate training, supervision, and
4 discipline as to the officers and law enforcement personnel in this case caused
5 Plaintiff to suffer general and special damages according to proof at the time of
6 trial.

7 62. As a direct and proximate result of Defendants IBARRA, HINSON,
8 BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1
9 through 30's deprivations and violations of Plaintiff's Fourth Amendment rights,
10 Plaintiff suffered and continues to suffer general and special damages according to
11 proof at the time of trial.

12 63. As a further direct and proximate result of the foregoing, Plaintiff suffered
13 severe physical injuries inflicted upon him by County personnel, including but not
14 limited to the following: (1) bruising and swelling on his face and head; (2)
15 difficulty eating due to injuries to his mouth and face; (3) swollen "black eyes;"
16 (4) injuries to his hands from being beaten while handcuffed; (5) difficulty
17 walking due to pain in his legs; (6) severe pain over much of his body.

18 64. As a further direct and proximate result of the foregoing, Plaintiff suffered
19 and continues to suffer from physical ailments, depression, nightmares, mental
20 anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping, social
21 withdrawal, tearfulness, and anger.

22 65. Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
23 PEARSON, RODRIGUEZ, and DOES 1 through 30's violations of PLAINTIFF's
24 rights as guaranteed by the Fourth Amendment of the United States Constitution
25 entitles Plaintiff to reasonable attorneys' fees and costs of suit pursuant to 42
26 U.S.C. § 1988(b).

27 66. In committing the acts described above, Plaintiff is informed and believes,
28 and thereon allege that Defendants IBARRA, HINSON, BILTON, LEVESQUE,

MIRANDA, PEARSON, RODRIGUEZ, and DOES 1-30, only, and each of them, acted with oppression, fraud, and/or malice, entitling Plaintiffs to an award of punitive damages under 42 U.S.C. § 1983 and California Code of Civil Procedure § 337.34 against Defendant IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, and RODRIGUEZ in an amount according to proof at time of trial.

FOURTH CAUSE OF ACTION

NEGLIGENCE

(Against All Defendants)

67. Plaintiffs re-allege and incorporates by reference each and every allegation contained in this complaint as though set forth herein in full.

68. On or about May 26, 2018, at the time and place described above, each of the Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30 were sheriff deputies acting within the course and scope of their employment who negligently, carelessly, and without reasonable care used excessive force and battered Plaintiff. Alternatively, at the time and place described above, each of the Defendants came upon Plaintiff and negligently, carelessly and/or recklessly concluded that he presented a risk of death or serious injury or harm to one of them, thereby necessitating the use of severe and deadly force against him.

69. Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30, and each of them, had the duty to exercise ordinary care towards the Plaintiff and should have known that subjecting the Plaintiff to conduct described herein would lead to bodily injury or death and foreseeably cause the Plaintiff to suffer harm.

70. Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30, breached their legal duty by failing to act reasonably in light of the circumstances.

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1 71. As a legal result of the Defendants' negligent conduct as described here,
2 Plaintiff suffered and continues to suffer general and special damages according to
3 proof at the time of trial, as provided in Cal. Code of Civ. Proc. §§ 425.10 and
4 425.11.

5 72. As a further direct and proximate result of the foregoing, Plaintiff suffered
6 severe physical injuries inflicted upon him by County personnel, including but not
7 limited to the following: (1) bruising and swelling on his face and head; (2)
8 difficulty eating due to injuries to his mouth and face; (3) swollen "black eyes;"
9 (4) injuries to his hands from being beaten while handcuffed; (5) difficulty
10 walking due to pain in his legs; (6) severe pain over much of his body.

11 73. As a further direct and proximate result of the foregoing, Plaintiff suffered
12 and continues to suffer from physical ailments, depression, nightmares, mental
13 anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping, social
14 withdrawal, tearfulness, and anger.

15 74. On information and belief, the wrongful acts and conduct of Defendants
16 IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON,
17 RODRIGUEZ, and DOES 1 through 30, as set forth above, was conducted or
18 occurred deliberately, intentionally, knowingly, maliciously, willfully, wantonly,
19 and with conscious and reckless disregard for the rights and safety of Plaintiff,
20 entitling Plaintiff to an award of exemplary damages as provided by Section
21 337.34 of the California Code of Civil Procedure.

22 75. The COUNTY and RCSD are vicariously liable for the wrongful acts of
23 Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
24 PEARSON, RODRIGUEZ, and DOES 1 through 30 pursuant to section 815.2 of
25 the California Government Code, which provides that a public entity is liable for
26 the injuries caused by its employees within the scope of the employment if the
27 employee's act would subject him or her to liability.

28 ///

FIFTH CAUSE OF ACTION

BATTERY

(Against All Defendants)

70. Plaintiffs re-allege and incorporates by reference each and every allegation contained in this complaint as though set forth herein in full.

71. Plaintiff is informed and believes that Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30, with the knowledge, permission and consent of Defendants COUNTY and RCSD, decided to batter Plaintiff and use excessive force against him, including kicking and beating the Plaintiff repeatedly while he was laying on the ground and choking the Plaintiff while he was handcuffed, though Plaintiff had not posed any reasonable threat of death or serious bodily injury to anyone.

72. Plaintiff did not consent to being battered or the use of that excessive force being employed upon his person.

73. Each of the Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30 battered Plaintiff, including kicking and beating the Plaintiff repeatedly while he was laying on the ground and choking the Plaintiff while he was handcuffed, with the intent to harm and/or offend him. Plaintiff was in fact harmed by the attack, resulting in his sustaining severe pain and injury to his mind and body.

74. As a direct and proximate result of the battery and excessive force described above, Plaintiff suffered severe physical injuries inflicted upon him by County personnel, including but not limited to the following: (1) bruising and swelling on his face and head; (2) difficulty eating due to injuries to his mouth and face; (3) swollen "black eyes;" (4) injuries to his hands from being beaten while handcuffed; (5) difficulty walking due to pain in his legs; (6) severe pain over much of his body.

75. As a further direct and proximate result of the foregoing, Plaintiff suffered

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1 and continues to suffer from physical ailments, depression, nightmares, mental
 2 anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping, social
 3 withdrawal, tearfulness, and anger.

4 76. As a direct and proximate result of the negligent and careless acts
 5 described above, Plaintiff has been generally and specially damaged in a sum to
 6 be established according to proof at the time of trial, as provided in Cal. Code of
 7 Civ. Proc. §§ 425.10 and 425.11.

8 77. On information and belief, the wrongful acts and conduct of Defendants
 9 IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON,
 10 RODRIGUEZ, and DOES 1 through 30, as set forth above, was conducted or
 11 occurred deliberately, intentionally, knowingly, maliciously, willfully, wantonly,
 12 and with conscious and reckless disregard for the rights and safety of Plaintiff,
 13 entitling Plaintiff to an award of exemplary damages as provided by Section
 14 337.34 of the California Code of Civil Procedure.

15 78. The COUNTY and RCSD are vicariously liable for the wrongful acts of
 16 Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
 17 PEARSON, RODRIGUEZ, and DOES 1 through 30 pursuant to section 815.2 of
 18 the California Government Code, which provides that a public entity is liable for
 19 the injuries caused by its employees within the scope of the employment if the
 20 employee's act would subject him or her to liability.

21 **SIXTH CAUSE OF ACTION**

22 **INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**

23 **(Against All Defendants)**

24 79. Plaintiffs re-allege and incorporates by reference each and every allegation
 25 contained in this complaint as though set forth herein in full.

26 80. While being detained by Defendants IBARRA, HINSON, BILTON,
 27 LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30,
 28 and while in the custody of the Defendants COUNTY and RCSD, Plaintiff was

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1 harassed, beaten and subjected to excessive force, including kicking and beating
2 the Plaintiff repeatedly while he was laying on the ground and choking the
3 Plaintiff while he was handcuffed.

4 81. By their herein described unprivileged and unlawful conduct, Defendants
5 IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON,
6 RODRIGUEZ, and DOES 1 through 30, clearly engaged in extreme, outrageous,
7 malicious, and unprivileged conduct, that was intended to cause, and did cause, or
8 recklessly disregarded the probability of causing, Plaintiff to suffer severe
9 emotional and mental distress.

10 82. As a direct, legal and/or proximate result of the herein described unlawful
11 and unprivileged conduct, Plaintiff suffered severe emotional and mental distress
12 including, but not limited to, shock to his nervous system, mental anguish, fright,
13 horror, nervousness, grief, anxiety, worry, humiliation, and shame.

14 83. On information and belief, the wrongful acts and conduct of Defendants
15 IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON,
16 RODRIGUEZ, and DOES 1 through 30, as set forth above, was conducted or
17 occurred deliberately, intentionally, knowingly, maliciously, willfully, wantonly,
18 and with conscious and reckless disregard for the rights and safety of Plaintiff,
19 entitling Plaintiff to an award of exemplary damages as provided by Section
20 337.34 of the California Code of Civil Procedure.

21 84. The COUNTY and RCSD are vicariously liable for the wrongful acts of
22 Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
23 PEARSON, RODRIGUEZ, and DOES 1 through 30 pursuant to section 815.2 of
24 the California Government Code, which provides that a public entity is liable for
25 the injuries caused by its employees within the scope of the employment if the
26 employee's act would subject him or her to liability.

27 ///

28 ///

SEVENTH CAUSE OF ACTION

VIOLATION OF RALPH ACT, CAL. CIVIL CODE § 51.7

(Against All Defendants)

85. Plaintiff repeats and re-alleges all prior paragraphs of this Complaint and incorporates the same herein by this reference as if those paragraphs were set forth in full herein.

86. Plaintiff is informed and believes that each of the Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30 decided to batter and use excessive force upon the Plaintiff, including kicking and beating the Plaintiff repeatedly while he was laying on the ground and choking the Plaintiff while he was handcuffed, as a result of their racial prejudice against him because he was an African-American male. Plaintiff contends that the Defendants would not have battered Plaintiff all over the head and body and used excessive force upon his person had he not been African-American.

87. Consequently, in choosing to exercise severe and malicious force against Plaintiff, each of the Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30 discriminated against him on account of his race and deprived him of civil rights protected under the California Constitution.

88. In committing the acts described above, each of the Defendants violated Plaintiff's right to be free from violence and intimidation by threats of violence because of his race, as guaranteed him by Civil Code § § 51.7 and 43, in that Defendants battered and used excessive force upon the Plaintiff, and intimidated him by threatening to so batter and use excessive force against him.

89. As a direct and proximate result of the negligent and careless acts described above, Plaintiff has been generally and specially damaged in a sum to be established according to proof at the time of trial, as provided in Cal. Code of

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1 Civ. Proc. §§ 425.10 and 425.11.

2 90. As a direct and proximate result of the battery and excessive force
3 described above, Plaintiff suffered severe physical injuries inflicted upon him by
4 County personnel, including but not limited to the following: (1) bruising and
5 swelling on his face and head; (2) difficulty eating due to injuries to his mouth and
6 face; (3) swollen “black eyes;” (4) injuries to his hands from being beaten while
7 handcuffed; (5) difficulty walking due to pain in his legs; (6) severe pain over
8 much of his body.

9 91. As a further direct and proximate result of the foregoing, Plaintiff suffered
10 and continues to suffer from physical ailments, depression, nightmares, mental
11 anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping, social
12 withdrawal, tearfulness, and anger.

13 92. In doing the acts alleged in this complaint, each of the Defendants
14 IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON,
15 RODRIGUEZ, and DOES 1 through 30, knew or through the exercise of
16 reasonable diligence should have known, that their actions were highly likely to
17 severely and/or fatally injure Plaintiff. Plaintiff is informed and believes, and on
18 that basis alleges, that each of those defendants intended to cause Plaintiff injury
19 and acted with a malicious, willful and conscious disregard for his rights as
20 secured by Civil Code § 51.7. He did nothing to justify the use of excessive force
21 against him. He was unarmed and had not posed any reasonable threat of death or
22 serious bodily harm to any person at or about the scene. He did not attempt to
23 resist. The unjustified use of excessive force against him was inflicted, in whole or
24 in part, on account of his race and with the intent to maliciously and oppressively
25 deny him of his civil rights, and/or to deprive him of his life, and/or to inflict
26 severe bodily injury on him. Accordingly, the conduct of IBARRA, HINSON,
27 BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1
28 through 30 in battering and using excessive force upon his person him the

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1 awarding of punitive damages against each of them pursuant to Civil Code §
 2 52(b)(1) and Civil Code § 3294.

3 93. As a further legal result of this civil rights violation, the Plaintiffs seek the
 4 award of reasonable attorney fees as provided for in Civil Code § § 52.1(b) and
 5 52.1(h), in an amount to be determined according to proof at trial.

6 94. As a further legal result of this civil rights violation, the Plaintiffs seek in
 7 addition to the other damages stated here, the statutory civil penalty of \$25,000
 8 per wrongdoer, except as to Defendants COUNTY, RCSD and DOES 1 through
 9 30, pursuant to Civil Code § 52(b)(2).

10 95. Defendants COUNTY and RCSD are vicariously liable for the wrongful
 11 acts of Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
 12 PEARSON, RODRIGUEZ, and DOES 1 through 30 pursuant to section 815.2 of
 13 the California Government Code, which provides that a public entity is liable for
 14 the injuries caused by its employees within the scope of the employment if the
 15 employee's act would subject him or her to liability.

16 **EIGHTH CAUSE OF ACTION**

17 **VIOLATION OF BANE ACT, CAL. CIVIL CODE § 52.1**

18 **(Against All Defendants)**

19 96. Plaintiff repeats and re-alleges all prior paragraphs of this Complaint and
 20 incorporates the same herein by this reference as if those paragraphs were set forth
 21 in full herein.

22 97. On or about May 26, 2018, at the time and place described above, each of
 23 the Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA,
 24 PEARSON, RODRIGUEZ, and DOES 1 through 30 interfered with Plaintiff's
 25 exercise and enjoyment of rights guaranteed him by Civil Code § 52.1 and
 26 California Constitution, Article I, § § 7 and 31, including the right to equal
 27 protection under the laws of California and the right not to be discriminated
 28 against on account of his race. Specifically, each of these Defendants

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1 discriminated against and interfered with Plaintiff's right to be free from any
2 threats and/or acts of violence or intimidation on account of his race; and, Plaintiff
3 was additionally discriminated against and denied equal protection and equal
4 rights under the law in that he was battered and subjected to excessive force on
5 account of his race as an African American.

6 98. As a direct and proximate result of the negligent and careless acts
7 described above, Plaintiff has been generally and specially damaged in a sum to
8 be established according to proof at the time of trial, as provided in Cal. Code of
9 Civ. Proc. §§ 425.10 and 425.11.

10 99. As a direct and proximate result of the battery and excessive force
11 described above, Plaintiff suffered severe physical injuries inflicted upon him by
12 County personnel, including but not limited to the following: (1) bruising and
13 swelling on his face and head; (2) difficulty eating due to injuries to his mouth and
14 face; (3) swollen "black eyes;" (4) injuries to his hands from being beaten while
15 handcuffed; (5) difficulty walking due to pain in his legs; (6) severe pain over
16 much of his body.

17 100. As a further direct and proximate result of the foregoing, Plaintiff
18 suffered and continues to suffer from physical ailments, depression, nightmares,
19 mental anguish, irritability, anxiety, short-temper, moodiness, difficulty sleeping,
20 social withdrawal, tearfulness, and anger.

21 101. In doing the acts alleged in this complaint, each of the Defendants
22 IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON,
23 RODRIGUEZ, and DOES 1 through 30, knew or through the exercise of
24 reasonable diligence should have known, that their actions were highly likely to
25 severely and/or fatally injure Plaintiff. Plaintiff is informed and believes, and on
26 that basis alleges, that each of those defendants intended to cause Plaintiff injury
27 and acted with a malicious, willful and conscious disregard for his rights as
28 secured by Civil Code § 51.7. He did nothing to justify the use of excessive force

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against him. He was unarmed and had not posed any reasonable threat of death or serious bodily harm to any person at or about the scene. He did not attempt to resist. The unjustified use of excessive force against him was inflicted, in whole or in part, on account of his race and with the intent to maliciously and oppressively deny him of his civil rights, and/or to deprive him of his life, and/or to inflict severe bodily injury on him. Accordingly, the conduct of IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30 in battering and using excessive force upon his person him the awarding of punitive damages against each of them pursuant to Civil Code § 52(b)(1) and Civil Code § 3294.

102. As a further legal result of this civil rights violation, the Plaintiffs seek the award of reasonable attorney fees as provided for in Civil Code § § 52.1(b) and 52.1(h), in an amount to be determined according to proof at trial.

103. As a further legal result of this civil rights violation, the Plaintiffs seek in addition to the other damages stated here, the statutory civil penalty of \$25,000 per wrongdoer, except as to Defendants COUNTY, RCSD and DOES 1 through 30, pursuant to Civil Code § 52(b)(2).

104. Defendants COUNTY and RCSD are vicariously liable for the wrongful acts of Defendants IBARRA, HINSON, BILTON, LEVESQUE, MIRANDA, PEARSON, RODRIGUEZ, and DOES 1 through 30 pursuant to section 815.2 of the California Government Code, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for judgment against Defendants and Does 1 through 30, inclusive, as follows:

1. For general damages in an amount to be determined according to proof at trial;

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2. For special damages in a sum according to proof at the time of trial;
3. For prejudgment and post-judgment interest according to any applicable provision of law, according to proof;
4. For attorney fees, costs, and expenses in an amount to be determined according to proof at trial pursuant to Civil Code § 52(a), (b)(3) and 42 U.S.C. § 1988 (b);
5. For punitive damages against each of the defendants except Defendants COUNTY and RCSD pursuant to Civil Code § 52(b)(1), § 3294 and 42 U.S.C. § 1983;
6. For a statutory civil penalty of \$25,000 pursuant to Civil Code § 52(b)(2) against each of the Defendants, except Defendants COUNTY and RCSD;
7. For such other and further relief as the Court deems just and proper.

DATED: January 25, 2019

MCMURRAY HENRIKS, LLP

By: 

Yana G. Henriks, Esq.

Attorneys for Plaintiff *JARRELL RAYVON ALLEN*

DEMAND FOR JURY TRIAL

Plaintiff JARRELL RAYVON ALLEN hereby demands a jury trial.

DATED: January 25, 2019

MCMURRAY HENRIKS, LLP

By: _____

Yana G. Henriks, Esq.

Attorneys for Plaintiffs *JARRELL RAYVON
ALLEN*

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